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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,796	08/30/2000	John Underwood	730301-2017	2074
20999	7590	08/21/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			OSMAN, RAMY M	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/651,796	Applicant(s) UNDERWOOD ET AL.	
	Examiner Ramy M. Osman	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This communication is responsive to RCE amendment filed on June 8, 2006 where applicant amended claims 1,12,13,24-28. Claims 1-28 are pending. The rejections are as stated below.

Response to Arguments

2. Applicant's arguments with respect to claims 1-28 have been considered but are not persuasive.
3. Applicant argues that Cohen fails to teach the amended limitation of "formatting the layout of the website based upon a type of device used to access the web site".

In reply, this limitation is non-enabled by the specification as mentioned below.

Furthermore, the claim language is broad and is subsequently taught by Cohen. Cohen teaches where a website can be formatted by a merchant changing the color(s) of their website (column 8 lines 47-60). The merchant does this from a local web browser which is located on a host server computer type of device used to access the website (column 7 lines 11-65 and figures 4 & 5). This reads on the limitation "based upon a type of device used to access the web site" since the merchant is access their website to make a formatting change.

Double Patenting

4. Examiner acknowledges Terminal Disclaimer filed on 5/8/2006, and thus withdraws double patenting rejection.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1,12,13 and 24-28 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The new claim limitation “formatting the layout of the website based upon a type of device used to access the web site” contains subject matter non-enabled by the specification. Applicant failed to disclose details of the “layout” and “formatting the layout”. There is no disclosure detailing how the “layout” of the website is formatted based upon device type.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1,12,13 and 24-28 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the limitation "the layout" in line 14 (of claim 1 for example). There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-10,12-22 and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Cohen (U.S. Patent No. 6,263,352).

11. In reference to claims 1,12,13 and 24-28, Cohen teaches the method, system and a computer program, respectively comprising the steps of:

Receiving first data entry including selection of an industry type (column 7 lines 50-67);

Generating and presenting one or more questions based at least in part on the selected industry type (column 7 lines 50-65);

Receiving a second data entry in response to the one or more questions (column 7 lines 50-65);

Determining one or more characteristics for each of one or more web site dimensions in accordance with the first and second data entries (column 7 lines 50-67);

Generating a description, including a structure, of the web site based upon the one or more determined characteristics for each of the one or more web site dimensions (column 7 lines 50-67 & column 8 lines 1-40);

Retrieving web site data including dynamic content data from an external data source in accordance with the generated description of the web site (column 8 lines 30-50);

Generating one or more pages of the web site based upon the description of the web site and the retrieved web site data (column 8 lines 30-60);

Formatting the layout of the website based upon a type of device used to access the web site (column 6 lines 23-28, column 7 lines 15-30 and column 8 lines 49-60); and

Presenting the generated web site (column 3 lines 45-55 and column 6 lines 5-40).

12. In reference to claims 2 and 14, Cohen teaches the method as claimed in claim 1, wherein the external data source is a web site (column 6 lines 5-30 & 57-67).

13. In reference to claims 3 and 15, Cohen teaches the method as claimed in claim 1, wherein the description defines a format of the dynamic content data (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

14. In reference to claims 4 and 16, Cohen teaches the method as claimed in claim 3, wherein the format of the pre-created industry content includes a look and feel of the dynamic content data (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

15. In reference to claims 5 and 17, Cohen teaches the method as claimed in claim 3, wherein the format of the pre-created industry content defined by the generated description is different from a format of the pre-created industry content as retrieved from the external data source (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

16. In reference to claims 6 and 18, Cohen teaches the method as claimed in claim 3, wherein the format of the dynamic content data matches a format of the web site (column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

17. In reference to claims 7 and 19, Cohen teaches the method as claimed in claim 6, wherein the format of the web site is defined by at least one of the characteristics of at least one of the

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web site dimensions (column 3 lines 5-45, column 7 line 50 – column 8 line 10 and column 8 lines 30-50).

18. In reference to claims 8 and 20, Cohen teaches the method as claimed in claim 1, further comprising the step of storing the description of the web site (column 3 lines 10-11 and column 8 lines 20-35).

19. In reference to claims 9 and 21, Cohen teaches the method as claimed in claim 1, wherein the data entry includes one or more user preferences (column 3 lines 1-25 and column 7 lines 50-67).

20. In reference to claims 10 and 22, Cohen teaches the method as claimed in claim 1, wherein the data entry includes one or more user profiles (column 3 lines 1-25 and column 7 lines 50-67).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (U.S. Patent No. 6,263,352) in view of Burge et al. (U.S. Patent No. 6,014,638).

Cohen teaches the method of claims 1 and 13 above. Cohen fails to teach wherein the data entry includes one or more navigation histories. However, Burge teaches using navigation history to customize computer displays (column 3, lines 45-67).

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It would have been obvious to one having ordinary skill in the art to modify Cohen by making the data entry comprised of navigation histories as per the teachings of Burge so as to customize the web site in accordance with the navigation history.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
August 8, 2006


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